

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH & HUMAN SERVICES

Call to Order: By **CHAIRMAN DAVE LEWIS**, on January 16, 2001 at 8:30 A.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Dave Lewis, Chairman (R)
Sen. John Cobb, Vice Chairman (R)
Rep. Edith Clark (R)
Rep. Joey Jayne (D)
Sen. Bob Keenan (R)
Sen. Mignon Waterman (D)

Members Excused: None.

Members Absent: None.

Staff Present: Robert V. Andersen, OBPP
Pat Gervais, Legislative Branch
Lois Steinbeck, Legislative Branch
Sydney Taber, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: Overview of Mental Health and Addictive Services, 1/16/2001

Executive Action: Executive Action on Child Support Enforcement

{Tape : 1; Side : A; Approx. Time Counter : 0.3}

SEN. COBB opened the meeting. **Ms. Lois Steinbeck, Legislative Fiscal Division Staff**, went over the annual average cost per child for the mental health the general fund program which had changed from \$7,700 annually to \$11,400 annually. This change occurred in 2 to 3 months time.

Ms. Steinbeck handed out a summary of recommendations from the HJR 35 interim subcommittee **EXHIBIT(jhh12a01)**. **Ms. Steinbeck** reviewed the summary and noted that the Mental Health Oversight Committee endorsed all HJR 35 recommendation. She went over the composition of the subcommittee on the interim study on mental health services and how the subcommittee had come about its recommendations.

{Tape : 1; Side : A; Approx. Time Counter : 6-12.4}

Ms. Steinbeck reviewed each of the bills recommended by HJR 35 and the recommendations to the appropriations subcommittee. SB 82 makes changes to statute relating to the public mental health system and reverses some changes adopted by the 1999 Legislature in SB 534. At that time, there was an expectation that the Department would move back into a managed care environment which was not possible. When the subcommittee began its review, it noted the definition of managed community care networks was so broad that there were types of individual providers, such as doctors and hospitals, that might have come under that definition. They would have had to comply with insurance financial solvency laws which was not the intent of the Legislature. It requires that Medicaid-managed care contractors demonstrate to the Insurance Commission that they can bear the financial risk under a managed care contract.

{Tape : 1; Side : A; Approx. Time Counter : 12.5-12.6}

SEN. WATERMAN gave a little background on the legislation. Providers recommended that the Department get rid of Magellan and said that they would help build the system. The bill could be used as a vehicle to implement Technical Assistance Collaborate, Inc. (TAC) recommendations if the Legislature and Executive branch wish to go that way.

{Tape : 1; Side : A; Approx. Time Counter : 14.7}

SEN. COBB asked if the bills have anything about a cap in them.

SEN. WATERMAN said that she had one with a gatekeeper in it.

Dan Anderson, Addictive and Mental Disorders Division, explained what TAC is to **REP. JAYNE**. **Ms. Steinbeck** requested that the Department get the entire report to Committee members today in order for members to have some knowledge of the report before the consultants give their presentation on Thursday.

In answer to a question from **REP. JAYNE** regarding the language rescinding managed care, **SEN. WATERMAN** explained that it had never been implemented. **Ms. Steinbeck** explained that in the last session the Legislature required the Department to retain a managed care consultant. It was in response to the good work that was done when they hired a consultant to look at the problems with the Magellan contract.

SB 108 will define professional persons to include advanced practice registered nurses with a psychiatric specialty as a professional in mental health proceedings, and also to allow them the right to prescribe and administer medication, and to testify at court proceedings.

SB 135 revises statutes relating to the mental health managed care ombudsman. It would require the ombudsman to prepare an annual report, clarifies that the ombudsman may not provide legal advice, and provides for confidentiality of information and exceptions to that confidentiality process.

SB 107 would allow the use of video teleconferencing in certain court proceedings. Local governments spend considerable time and money transporting patients, and this bill could help alleviate that problem.

Senate Joint Resolution 2 directs DPHHS and the Department of Corrections to coordinate and collaborate with state agencies, local governments, and the judiciary in training and education programs on mental illness. It is tied to the budget request item in the Executive Budget for an FTE and funds for the training.

House Joint Resolution 1 would provide for the continuance of the study of the public mental health system. It would be set up as a subcommittee of the Legislative Finance Committee and membership would be drawn from the interim committees interested in reviewing mental health issues. This organization would provide an efficient and integrated approach to legislative consideration and oversight of public mental health services.

{Tape : 1; Side : A; Approx. Time Counter : 35.8}

Discussion on Child Support Enforcement Issues:

In answer to questions by **CHAIRMAN LEWIS, Mary Ann Wellbank, Administrator of the Child Support Enforcement Division**, explained that if the Department closed a regional office, the case load per worker would go up, and the chances of achieving the performance incentives that the Department is currently achieving would go down. **Ms. Wellbank** then went over the incentive money and explained how the Department calculated the base amount that would need to be spent in order to comply with the federal requirement to supplement not supplant **EXHIBIT(jhh12a02)**. In order to comply with the language of the law, the Department would need to spend \$14 million each year of the biennium. The current budget request is less than that, so the Department is not certain it is in compliance with federal

law. A 15% reduction would create a situation of being even further out of compliance.

SEN. WATERMAN asked if in order to meet the supplement not supplant language the Department could not add the incentives back in. **Ms. Wellbank** explained that the base does not include the incentives which are reinvested on top of the base.

{Tape : 1; Side : B; Approx. Time Counter : 2.1-10.5}

Ms. Wellbank said that she does not know what sort of penalties would be imposed should the Department violate the supplement not supplant requirement. Montana has always been in compliance with the law, but other states have siphoned the funding for other purpose. Since the law that would impose penalties has just come into effect, there have been no penalties imposed from which to judge. In response to questions from **SEN. WATERMAN** regarding the work load in the regional offices, **Ms. Wellbank** responded that about 20% of cases are walk-ins. **EXHIBIT(jhh12a03)** and **EXHIBIT(jhh12a04)**

EXECUTIVE ACTION ON CHILD SUPPORT ENFORCEMENT

{Tape : 1; Side : B; Approx. Time Counter : 11.4}

A roll call vote was called by **CHAIRMAN LEWIS**.

Motion/Vote: **SEN. KEENAN** moved **TO ACCEPT THE HB 64 REDUCTION PLAN TO ELIMINATE A REGIONAL CHILD SUPPORT ENFORCEMENT OFFICE AND USE THE FREED UP STATE SPECIAL REVENUE MONEY FOR A FUNDING SHIFT, AND FUND SEARCHS COST WITH THE STATE SPECIAL REVENUE RATHER THAN USING GENERAL FUND**. Motion carried 5-1 with Cobb voting no.

SEN. WATERMAN expressed concerns about the reduction in the work force for the Division and requested that Department provide additional information on the impact of this reduction. **Ms. Wellbank** said that she would get that information for the Committee.

{Tape : 1; Side : B; Approx. Time Counter : 20}

Motion/Vote: **SEN. KEENAN** moved **THE BASE LEVEL OF FUNDING PLUS THE STATEWIDE PRESENT LAW ADJUSTMENT (TO INCLUDE - DP 699 - ADDED VACANCY SAVINGS) FOR THE CHILD SUPPORT ENFORCEMENT PROGRAM..** Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 23}

Motion/Vote: **SEN. KEENAN** moved **TO ADOPT DP 11 UPGRADES TO THE VOICE RESPONSE UNIT AS A ONE TIME ONLY APPROPRIATION**. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 24.1}

Motion/Vote: SEN. KEENAN moved TO ADOPT DP 12 A CONTRACT ADJUSTMENT FOR THE CUSTOMER SERVICE UNIT WITH MAXIMUS AND THE DEPARTMENT OF REVENUE. Motion carried 5-1. Cobb voting no.

{Tape : 1; Side : B; Approx. Time Counter : 23.9}

In response to remarks from CHAIRMAN LEWIS, Mike Billings, Administrator of Office and Technology, and Wayne Peterson, Administrative Service Bureau, went over the cost increases in leases.

{Tape : 1; Side : B; Approx. Time Counter : 31.2}

Motion/Vote: REP. LEWIS moved TO ADOPT DP 13 THE OFFICE LEASE RENEGOTIATION FOR INFLATION. Motion carried unanimously.

SEN. COBB asked why the access and visitation grant was moved from Child and Family Services Division. Ms. Wellbank explained that the grant was moved because access and visitation are usually handled in conjunction with child support enforcement. The Division uses the money to contract with two groups which do mediation services and hold classes that teach divorced parents how to work together to parent a child.

{Tape : 1; Side : B; Approx. Time Counter : 34.3}

Motion/Vote: SEN. WATERMAN moved TO ADOPT DP 14 ACCESS AND VISITATION GRANT. Motion carried 5-1 with Cobb voting no.

{Tape : 1; Side : B; Approx. Time Counter : 37.3}

Motion/Vote: SEN. WATERMAN moved TO ADOPT DP 10 FUNDING FOR TWO FTE. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 37.3}

In regard to DP 99 and the SEARCHS system level of effort increase, Ms. Wellbank explained that for the past two years the effort has been to bring the system in compliance with the law. The proposal enhances the level of effort by 50% to make the system more efficient and effective. SEN. COBB asked about the \$1 million for the maintenance contract that the Division requested for the biennium. Mr. Billings explained that the system requires constant changes.

{Tape : 2; Side : A; Approx. Time Counter : 7.6}

Motion/Vote: SEN. WATERMAN moved TO ADOPT A BIENNIAL ONE TIME ONLY APPROPRIATION EQUALING A 20% INCREASE IN THE DP 99 SEARCHS FACILITY MAINTENANCE CONTRACT. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 7.7}

In response to questions from Committee members, **Ms. Wellbank** explained that the financial institutions data match would allow the Department to match delinquencies against bank accounts.

{Tape : 2; Side : A; Approx. Time Counter : 11.6}

Motion/Vote: **SEN. WATERMAN** moved **TO ADOPT A RESTRICTED APPROPRIATION FOR DP 100 FINANCIAL INSTITUTIONS DATA MATCH.**
Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 12.6-}

Ms. Wellbank said that there are many cases where the obligated parent purposefully evades paying child support by intentionally leaving the state to work and doing everything possible to hide income and prevent collection of that support. This has now been codified as criminal behavior so that child support services can go after the individual through the justice system. She cited specific examples of particularly egregious cases of non-support and said that there are a lot of cases. The Department has spent a lot of time and effort in tracking down individuals.

{Tape : 2; Side : A; Approx. Time Counter : 19.6-20.6}

Ms. Gervais went over the LFD issue on page B-69 of the budget analysis. This proposal shifts cost and responsibility from the judiciary branch to the executive branch, since this is a function delegated to counties and county attorneys. The 1999 Legislature appropriated funding to the Justice Department for five FTE attorneys to assist county attorneys with child abuse and neglect cases. The Committee may wish to investigate the feasibility of using those attorneys to prosecute these cases.

SEN. WATERMAN asked if the Department of Justice had indicated whether it was interested in working on these cases, and whether the five attorneys that were already funded for Justice had been effective before the Committee decides to contract for other attorneys. **SEN. WATERMAN** remarked that she is not interested in paying county attorneys to prosecute these cases which are low on their priority lists, and would rather go through the Justice Department.

{Tape : 2; Side : A; Approx. Time Counter : 22-27.5}

In response to questions by **REP. JAYNE**, **Ms. Wellbank** went over the process the Department goes through in going to court, and how it became a criminal rather than civil procedure.

The Committee agreed to not vote on DP 101 until it hears how the Department of Justice feels about prosecuting criminal non-support cases and whether the five attorneys have been effective in child abuse and neglect cases.

{Tape : 2; Side : A; Approx. Time Counter : 27.9-33.}

Motion/Vote: SEN. KEENAN moved TO ADOPT DP 501, A COST STUDY OF RAISING A CHILD IN MONTANA AS AN APPROPRIATION RESTRICTED IN USE AND ONE TIME ONLY. Motion carried 5-1 with Cobb voting no.

Ms. Wellbank responded to questions by **REP. JAYNE** that there has never been a study done that is unique to Montana and that the federal matching funds are a special grant awarded by the federal government. It is \$8,000 in state funds, and federal funds from the grant can be matched with other federal funds, the federal government is pumping \$160,000 to \$170,000 into this. It will gather focus groups of parents to identify what they think are important factors to consider in the cost and price costs identified by parents. The courts and the Child Support Enforcement Division must take into consideration in establishing support is the cost of raising a child in Montana.

{Tape : 2; Side : A; Approx. Time Counter : 34-37.4}

CHAIRMAN LEWIS reviewed the votes on the various decision packages and the money freed up. He requested that the Division report back to the Committee on the number of employees impacted by the closure of an office.

{Tape : 2; Side : A; Approx. Time Counter : 44-49.5}

Dan Anderson passed out several hand outs **EXHIBIT(jhh12a05)** **EXHIBIT(jhh12a06)**. He reviewed the 15% cuts in his budget.

Mr. Anderson went over the 15% cuts required by statute to be identified. The first reduction will be in mental health services for children. A significant part of this cut has already occurred. A further cut in the program will eliminate children not on CHIP from the program.

Next, the Department will reduce the Montana Chemical Dependency Center state special revenue and backfill with alcohol and drug block grant funds. That reduction would save \$1 million in federal funds; the impact would be a 25% reduction in funding for community chemical dependency programs for non-Medicaid recipients.

{Tape : 2; Side : B; Approx. Time Counter : 0.1}

The Department will exclude from Medicaid free standing children's psychiatric hospitals. **Ms. Steinbeck** explained that this reduction could cost more general fund overall because it could be a direct cost shift to the general fund budget in foster care. If Medicaid funding is eliminated, the Department will pay 100% general fund. Costs would need to decline by two-thirds to break even on general fund with this proposal. **Mr. Anderson**

remarked that if the Department continues to cover residential treatment services numbers of these children would move into that service.

The fourth item in the reduction plan is the elimination of partial hospitalization in non-hospital based sites and in the non-Medicaid program. The budget mitigation plan has reduced the reimbursement rate for partial hospitalization in non-hospital sites by 44% already for cost savings.

The fifth item is reduction of partial hospitalization rates by 25%. This became effective last week.

The sixth item in the plan is to make Severe Emotional Disturbance and Severe Disabling Mental Illness (SED/SDMI) medical necessity criteria for Medicaid. SED is a children's label and SDMI is an adult label. Within the Medicaid program, a person would have to meet one of those criteria in order for Medicaid to pay for specialized mental health services. This would be done for adults, but for children it would not be done unless the other measures did not work. Children in state custody are Medicaid eligible, but not all are severely emotionally disturbed, which could cause the same sort of cost shift already discussed.

Ms. Steinbeck explained that the HJR 35 committee had studied this and found that some of the ramifications for adults would be that Medicaid funding would no longer be available for adults coming out of domestic violence or abusive situations. Also, developmentally disabled (DD) individuals who do not meet the criteria for SDMI and would be denied Medicaid funding for mental health services.

{Tape : 2; Side : B; Approx. Time Counter : 10.2}

SEN. WATERMAN requested additional information on the sixth item for adults and potential ramifications for cutting them. **Mr.**

Anderson responded to another question from **SEN. WATERMAN**, that it is doubtful that partial hospitalization under Medicaid can be eliminated. The Department is required to provide outpatient hospital services.

{Tape : 2; Side : B; Approx. Time Counter : 10.4-12}

Ms. Steinbeck commented that the state cannot provide and pay for Medicaid services with Medicaid funds unless they are medically necessary. In considering optional Medicaid services, if the service is medically necessary and can be provided in another setting, it will be funded.

{Tape : 2; Side : B; Approx. Time Counter : 13.5-27.8}

Following up on questions from **SEN. WATERMAN**, **Mr. Anderson** said that inpatient community hospitalization cannot be excluded from Medicaid. **Ms. Steinbeck** commented that this goes back to medical necessity and state-wide availability of services under the Medicaid program. Within Medicaid, there is an entitlement within the entitlement having to do with children's services. The Early Periodic Screening Diagnosis and Treatment Program (EPSDT) says that even if a state Medicaid plan does not include a federally allowable service, if it's the only service that will address a child's need, the Department would still pay for it. The EPSDT requirements go to 21. There is nothing left in the program for mental health services for children.

Mr. Bob Olsen, Montana Hospital Association, explained that it is a violation of federal rules for a hospital with the ability to provide stabilizing care for a psychiatric condition to not provide it. If the hospital does not have that capacity, it must transfer the patient to a hospital that does provide the service. It also violates federal rules to refuse to accept the transfer.

Ms. Steinbeck commented further that when a state has a Medicaid program it must offer certain mandatory services, but some are optional. Most optional services are outpatient. Inpatient services covered in Medicaid cannot be limited by diagnosis, but the service must be medically necessary. **Ms. Steinbeck** said that she would get a list of Medicaid required services and optional services for the Committee.

{Tape : 2; Side : B; Approx. Time Counter : 27.9-48.4}

Mr. Anderson presented his overview of the structure, facilities, programs, responsibilities, and organization of Addictive and Mental Disorders Division. He introduced those members of his staff that were at the hearing:

- Bob Mullen, Operations Bureau Chief
- Susan Haran, Office Manager
- Roland Mena, Chemical Dependency Bureau Chief
- Dave Peshek, Montana Chemical Dependency Center Director
- Randy Poulsen, Mental Health Bureau Chief
- Ron Balas, Mental Health Nursing Care Center Superintendent

{Tape : 3; Side : A; Approx. Time Counter : 0.3-14.3}

Mr. Anderson went over surveys done in the correctional facilities and mental health programs regarding chemical dependency and mental illness, and stressed that this issue cuts across all programs in DPHHS and Corrections. He continued his presentation going into detail about each program, what services are provided, staffing issues and statistics on treatment and success. Co-occurring disorders, mental illness and chemical dependency, is a big issue for the division and causes funding

problems for the Department since funding is based on the illness rather than the individual's total needs. The Olmstead decision that states that the individual must be treated in the most appropriate setting will also affect the programs. Rural services delivery is another problem for the programs since few rural areas have providers that can handle the mental illness and chemical dependency problems.

{Tape : 3; Side : A; Approx. Time Counter : 18.5 - 24.6}

Committee members made remarks on the issue of fourth time DUI individuals in the corrections institutions. It was suggested that chemical dependency treatment should be instituted at the start of the prison term, not the end. The Committee would like to spend the money used on the treatment more effectively and with greater impact. **Mr. Anderson** said that nationwide the pendulum is swinging from incarceration to treatment for the DUI problem.

{Tape : 3; Side : A; Approx. Time Counter : 24.7-38.9}

In response to several questions from **SEN. WATERMAN**, **Mr. Anderson** stated that there is follow-up data on those who have been treated for chemical dependency and that it will be provided to the Committee, and that the admissions waiting time at the Chemical Dependency Center is currently three weeks, although it has been as high as three months this year. **SEN. WATERMAN** also requested the vacancy rate at the Chemical Dependency Center this past year. **Mr. Anderson** then went over more survey information from the chemical dependency program. **Mr. Anderson** said that he would get information on those patients who come back a second and third time for **REP. JAYNE**.

Mr. Anderson went over the present law adjustment issues and decision packages for the Chemical Dependency Center.

{Tape : 3; Side : A; Approx. Time Counter : 39-47}

Mr. Anderson went over the Chemical Dependency Bureau, the services it provides and the funding that is used for the services. One of the major developments has been the increase in chemical dependency services for children. The Department has also been developing a Medicaid infrastructure by refinancing the chemical dependency system to provide an expanded Medicaid benefit. The Chemical Dependency Bureau has been very active in a series of meetings with providers helping develop the expertise to bill and understand eligibility requirements. The Chemical Dependency Bureau and Mental Health Services Bureau have been involved in a task force which has been developing a model of crisis services for people that are both addicted and mentally ill. The Chemical Dependency Bureau has shown leadership in

planning services for children, and has also been working to develop a more unified approach with other agencies.

{Tape : 3; Side : B; Approx. Time Counter : .3-8.9}

Roland Mena has worked with many groups to develop the prevention services and create a more unified approach with other agencies.

Mr. Anderson went over eligibility in the chemical dependency programs. There is no Medicaid for adult chemical dependency services. **CHAIRMAN LEWIS** asked if those individuals in prison on fourth-time DUI were in community services would they be Medicaid eligible. **Ms. Steinbeck** said that it is not the disability type, but it is the income, resources, and disability that creates eligibility.

{Tape : 3; Side : B; Approx. Time Counter : 9-14.9}

Mr. Anderson continued his detailed presentation on the Chemical Dependency Bureau. **SEN. COBB** queried as to whether the Department discussed the chemical dependency problems with the police. **Mr. Mena** said that the bureau does provide information on treatment programs to the police, and that there is an impact on services when drug busts go on.

{Tape : 3; Side : B; Approx. Time Counter : 15-18}

There was discussion on the rise of methamphetamine usage and the increase in usage in the last 5 or 6 years. **Mr. Peshek** went over the percentages for methamphetamine users.

{Tape : 3; Side : B; Approx. Time Counter : 18.1-32.9}

Mr. Anderson proceeded with his presentation and went over performance measurements and follow up and went into detail on the various prevention programs that AMDD funds, the funding methods for those programs, including the block grant prevention program and the Community Incentive Program, performance measurements, and recipients of the sub-grants.

{Tape : 3; Side : B; Approx. Time Counter : 32.9-42.7}

Mr. Anderson went over the Division's present law adjustment issues.

Mr. Anderson will present the new proposals for addiction prevention and the mental health of AMDD tomorrow.

CHAIRMAN LEWIS closed the hearing.

Additional information was submitted **EXHIBIT(jhh12a07)**
EXHIBIT(jhh12a08).

ADJOURNMENT

Adjournment: 11:45 A.M.

REP. DAVE LEWIS, Chairman

SYDNEY TABER, Secretary

DL/ST

EXHIBIT (jhh12aad)